

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION**

ANGELA SEXTON

5075 Bayside

Dayton, Ohio 45431

Plaintiff,

v.

**ENHANCED RECOVERY
COMPANY, LLC**

c/o Capitol Corporate Services, Inc.

4568 Mayfield Road, Ste 204

Cleveland, Ohio 44121,

Defendant.

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) Case No: 3:12-cv-264

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) JURY DEMAND REQUESTED

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) **CIVIL COMPLAINT**

) **(Unlawful Debt Collection Practices)**

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COMPLAINT

PLAINTIFF, ANGELA SEXTON (Plaintiff), by her attorneys, KAHN AND ASSOCIATES, L.L.C., alleges the following against DEFENDANT, ENHANCED RECOVERY COMPANY, LLC (Defendant):

INTRODUCTION

1. Plaintiff's Complaint is based on the Fair Debt Collection Practices Act, *15 U.S.C. 1692 et seq.* (FDCPA).

JURISDICTION AND VENUE

2. Jurisdiction of this court arises pursuant to *15 U.S.C. 1692k(d)*, which states that such actions may be brought and heard before "any appropriate United States district court without regard to the amount in controversy," and *28 U.S.C. 1367* grants this court supplemental jurisdiction over the state claims contained therein.
3. Because Defendant conducts business in Ohio, personal jurisdiction is established.
4. Venue is proper pursuant to *28 U.S.C. 1391(b)(2)*.

PARTIES

5. Plaintiff is a natural person who resides in Dayton, Montgomery County, Ohio and is allegedly obligated to pay a debt, and Plaintiff is a “consumer” as that term is defined by *15 U.S.C. 1692a(3)*.
6. Pursuant to the definitions outlined in *15 U.S.C. 1692a(1-6)*, Defendant is a debt collector and sought to collect a consumer debt from Plaintiff which was allegedly due and owing from Plaintiff, and Plaintiff is a consumer debtor.
7. Defendant is a Delaware limited liability company and debt collector with an office in Jacksonville, Florida.
8. Defendant uses instrumentalities of interstate commerce or the mails in a business the principal purpose of which is the collection of any debts, and/or regularly collects or attempts to collect, directly or indirectly, debts owed or due or asserted to be owed or due another and is a "debt collector" as that term is defined by *15 U.S.C. § 1692a(6)*.
9. Defendant is a collection agency that in the ordinary course of business, regularly, on behalf of itself or others, engages in debt collection.

FACTUAL ALLEGATIONS

10. Plaintiff is an Ohio resident who is currently attending school in Arizona. Defendant places collection calls to Plaintiff's Ohio cell phone number, 937.867.7359, before 6:00 A.M. Arizona local time.
11. Defendant has knowledge that it is communicating with Plaintiff at a time known to be inconvenient to her because Plaintiff has informed Defendant on at least two

occasions that she is currently attending school in Arizona, is in a different time zone, and that calls are being received prior to 6:00 A.M.

12. Despite the knowledge that calls are being received by Plaintiff at an inconvenient time, Defendant continues to place early morning calls to Plaintiff.

13. On or about April 6, 2012, Plaintiff received a collection call from Defendant from telephone number 800.496.8519 at 5:56 A.M.

14. On or about April 13, 2012, Plaintiff received a collection call from Defendant from telephone number 800.496.8519 at 5:43 A.M.

COUNT I

DEFENDANT VIOLATED THE FAIR DEBT COLLECTION PRACTICES ACT

15. Defendant violated the FDCPA based on the following:

- a. Defendant violated §1692c(a)(1) by, without the prior direct consent of the consumer, communicating with the consumer at any unusual time or place or a time and place known to be inconvenient to the consumer, including before 8:00 AM and after 9:00 PM local time at the consumer's location.
- b. Defendant violated §1692d(5) by causing a telephone to ring or engaging any person in telephone conversation repeatedly or continuously with intent to annoy, abuse, or harass any person at the called number.

WHEREFORE, Plaintiff, Angela Sexton, respectfully requests judgment be entered against Defendant, for the following:

16. Statutory damages of \$1000.00 pursuant to the Fair Debt Collection Practices Act, 15 U.S.C. 1692k,

17. Costs and reasonable attorneys' fees pursuant to the Fair Debt Collection Practices Act, *15 U.S.C. 1692k*

18. Any other relief that this Honorable Court deems appropriate.

DEMAND FOR JURY TRIAL

Plaintiff, Angela Sexton, requests a jury trial in this case.

Respectfully submitted,

KAHN & ASSOCIATES, LLC

/s/ J. Daniel Scharville

J. DANIEL SCHARVILLE (0071132)

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